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PATENT
Customer No. 22,852
Attorney Docket No. 7040.0116.00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Marco NAHMIAS NANNI et al.)
Serial No.: 10/038,622) Group Art Unit: 1733
Filed: January 8, 2002) Examiner: Johnstone, A.
For: HIGH PERFORMANCE TYRE)
WITH TREAD BAND HAVING)
AN ANISOTROPIC)
UNDERLAYER STABLE WITH)
TEMPERATURE VARIATION)

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

Applicants submit this Response to Restriction Requirement in reply to the Office Action mailed July 25, 2002, the period for reply to which extends through Monday, August 26, 2002 (August 25, 2002, being a Sunday).

In the Office Action, the Examiner required restriction under 35 U.S.C. § 121 between: Group I, claims 31-35, characterized by the Examiner as drawn to a high-performance tire whose tread underlayer has substantially-constant hardness between 23 °C and 100 °C; Group II, claims 36-40, characterized by the Examiner as drawn to a high-performance tire whose tread underlayer has substantially-constant elastic modulus between 70 °C and 100 °C; Group III, claims 41-53, characterized by the Examiner as drawn to a high-performance tire whose tread underlayer is made from an elastomer compound comprising reinforcing fibers and hardening

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resins; Group IV, claim 54, characterized by the Examiner as drawn to a high-performance tire whose tread underlayer has both substantially-constant hardness between 23 °C and 100 °C and substantially-constant elastic modulus between 70 °C and 100 °C; and Group V, claims 55-60, characterized by the Examiner as drawn to a method for improving behavior at high speeds of a high-performance tire. Applicant provisionally elects, with traverse, to prosecute Group I, claims 31-35.

Regarding traverse of the restriction requirement, Applicants submit that the search and examination of this entire application can be made without serious burden. As such, MPEP § 803, ¶ 2, requires the Examiner to examine the entire application on the merits.

Specifically, Applicants note that Groups I-IV are all classified in the same class and subclass (Class 152, Subclass 209.5). Additionally, Applicants note that Group IV, as characterized by the Examiner, is simply the intersection of Groups I and II. The Examiner appears to make no attempt to show serious burden, as required by MPEP § 803, ¶ 2. Further, the Examiner's own classification of Groups I-IV belies any such attempt, at least as to Groups I-IV.

Therefore, because the required showing of serious burden has not been made, Applicants request that the Examiner examine the entire application on the merits, as required by MPEP § 803, ¶ 2.

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Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 26, 2002

By: 

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